



## **CASE SUMMARY**

### **Planning Commission**

## **Land Development Code Amendment**

### **January 6, 2021**

### **LDC-8-121**

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<i>Staff Recommendation</i>	<b>Approval</b>
<i>Planning Commission Recommendation</i>	<b>1/6/21, Scheduled for public hearing</b>
<i>City Council Action</i>	<b>Pending</b>

<i>Proposal</i>	To amend open space regulations across the Land Development Code	
<i>Code Sections</i>	Article 5, Zoning District Regulations: Sec. 18-184. Multifamily residential districts  Article 7, Subdivision Regulations: Sec. 18-383. Recreation Space; Sec. 18-433. Development standards  Article 15, Definitions	
<i>Applicant</i>	City of Wilmington	

### **Case Overview**

The proposed amendment would modify open space regulations for multifamily and some single-family development types that currently require open space, making the requirements and terminology consistent across these development types. The amendment would not change the types of developments that require open space. Definitions of open space and recreation space would be added.

The proposed changes would align the current open space requirements with those recently approved as part of the commercial district mixed use amendments, as well as what has been presented in the draft of the new Land Development Code.

### **ANALYSIS**

#### **History/Background**

In various parts of the code, open space, recreation space (passive or active), and common area are referenced, and the definitions of each are unclear. The code currently requires some form of open space as described in the table below. The table includes some applicable links to the draft of the proposed new LDC.

## Existing and Proposed Open Space Requirements

<b>Development Type or Zoning District</b>	<b>Current Open Space Requirement</b>	<b>Current Standards</b>	<b>Proposed Changes with current Amendment</b>
<a href="#">Multifamily</a> (MF-L, MF-M, MF-MH, MF-H)	35% of the tract	<ul style="list-style-type: none"> <li>- For developments with multiple buildings or one building with 8+ units</li> <li>- Water must be excluded</li> <li>- Half must be active or passive recreation space</li> <li>-Half must be active or passive reaction areas or open space</li> </ul>	20% of tract
Commercial district mixed use	20% of the tract	<ul style="list-style-type: none"> <li>-Minimum horizontal dimension of 10 feet</li> <li>-may be active or passive</li> <li>-yards, rights-of-way, most stormwater facilities, parking lot islands, and paved plazas excluded</li> </ul>	None
Single-family <a href="#">courtyard development</a>	500 square feet per dwelling unit of common open space (common courtyard)	<ul style="list-style-type: none"> <li>-No dimension less than 30 feet</li> <li>-Excludes parking areas, yard setbacks, required setbacks, private open space, and driveways</li> <li>-Any portion of central courtyard open space within 35 feet of a parking space does not count toward minimum courtyard requirements</li> </ul>	None
Residential subdivisions	0.03 of an acre per dwelling unit of recreation space	<ul style="list-style-type: none"> <li>-No more than 50% of required recreation space can be active or passive recreation area</li> <li>-Natural areas set aside as contiguous undisturbed open spaces can be used to satisfy passive recreation area requirements and can exceed 50% of the total</li> <li>-At least ½ of total land dedicated must be outside of wetland areas</li> <li>-Open space may be a greenway (must be at least 30 feet in width)</li> </ul>	10% of tract

<u>Cluster subdivisions</u>	At least 40% of the total land area reserved as common or public open space	-All land delineated as primary conservation areas must be dedicated as open space -No more than 25% of common open space can be improved for active or passive recreation -Excludes stormwater facilities	None
Exceptionally designed projects  <i>(density bonus proposed to be replaced with <u>impervious surface coverage bonus</u> in new LDC)</i>	At least 10% of the site (minimum of 1 acre) for additional density/impervious surface coverage	-Undeveloped, undisturbed natural open space for -scaled from 10% to gain points towards density bonuses	None

The current regulations related to open space are inconsistent and located in multiple sections within the code. As the new LDC has been considered, open space standards are proposed to be consolidated in one location and applied more consistently across zoning districts and development patterns. In November, the provisions for the commercial district mixed use (CDMU) development type were amended to include open space provisions, as requested by representatives of the development community. Those provisions align with the open space standards proposed in the revised Land Development Code (LDC) currently in progress. The intention of this amendment is to consolidate the recently approved new open space standards in a central location within the current code for consistent application, understanding and use.

## PROPOSED AMENDMENT

The proposed amendment is intended to bring all open space standards in the new LDC into alignment. Specifically, the proposed amendment would do the following:

- Define open space;
- Require a fixed percentage of open space;
- Establish more uniform dimensional parameters for dedicated open space;
- Clarify what may count towards open space; and
- Move all open space standards to Article 7, Subdivision Regulations, with cross-references back to the open space section.

In the draft amendment to the Land Development Code that follows, additions are underlined, and deletions are in ~~strikethrough~~.

Article 5, Zoning District Regulations, Division II, District Regulations

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Sec. 18-184. Multifamily Residential Districts (MF-L, MF-M, MF-MH, MF-H).

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(g) Special Regulations. ~~Design standards for multifamily complexes with multiple buildings or a single building with more than eight (8) units~~ Multifamily and attached developments must be designed in accordance with the following standards:

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(11) All new multifamily developments shall provide open space as prescribed in Sec. 18-383 of this chapter. ~~that is equivalent to a minimum of thirty-five (35) percent of the size of the tract. In calculating the required amount of open space for the proposed multifamily development, the area of the property associated with natural ponds, stormwater ponds, lakes, ponds, rivers, streams and marshes shall first be subtracted from the gross area of land to be committed to the development. Half (17.5%) of the overall open space shall be either active or passive recreation areas. The remaining half (17.5%) may be active or passive recreation areas, or open space. The required open space and recreation space shall meet the minimum standards as defined in Article 7 of this chapter.~~

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## Article 7. Subdivision Regulations, Division II. Required Improvements.

### Sec. 18-383. Recreation Open space.

(a) *General provisions.* Every subdivider of land for residential purposes and where otherwise prescribed in this chapter, shall dedicate a portion of such land, ~~as set forth herein~~, for the purpose of providing ~~active and passive recreation areas~~ open space to serve the residents of the immediate development. ~~neighborhood within the subdivision.~~

~~(b) Active and passive recreation space dedications.~~

~~(1) Recreation areas shall be defined for active or passive recreation use as follows:~~

~~a. Active recreation consists of areas such as park land chosen without regard to natural features for the explicit purposes of enhancing design, such as village commons, or providing space for outdoor recreation activities which may include, but are not limited to, tennis courts, ball fields, swimming pools, and tot lots with play equipment. No more than twenty-five (25) percent of the required active recreation may be located in an indoor facility such as, but not limited to, exercise rooms, clubhouses, and gymnasiums. Parking spaces associated with these uses, whether required or not, shall not be counted towards satisfying the required active recreation space provision.~~

~~b. Passive recreation areas shall consist of undisturbed, unique, and sensitive natural features when available, that may include streams, floodplains, wetlands (excluding tidal marsh) conservation resources, and natural heritage areas, if identified. These natural spaces will be characterized by undisturbed soils and natural vegetative cover for wildlife habitat. Passive recreational space may become part of designated city and county greenways. Amenities such as walking paths, piers, picnic areas and other passive recreational uses will be allowed with minimal disturbance of the vegetation.~~

~~(c) Required recreation open space.~~

~~(1) All new residential subdivisions shall provide and development subject to open space set-aside standards shall provide a minimum of 10 percent of the total tract as open space, unless otherwise specified by the development or use provisions for that development type. recreation space in the amount of 0.03 acres per dwelling unit within the subdivision. No more than fifty (50) percent of the required recreation space can be designated as either active or passive recreation areas. Natural areas set aside as contiguous undisturbed open space~~

~~(2) Recreation space areas shall be of such minimum dimensions as to be functionally usable and maintainable. Land designated for open space set-aside shall have a minimum unobstructed horizontal dimension of 10 feet.~~

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~~(d)~~ *Standards for park, recreation, and open space areas.* Except as otherwise approved by the appropriate governing body, all park, recreation, and open space areas shall meet the following criteria:

(1) The following areas shall not be credited towards any open space set aside requirements:

a. Private yards;

b. Street rights-of-way, including verge or plaza areas;

c. Parking areas and driveways for dwellings or other uses;

d. Designated outdoor storage areas;

e. Fountains, or other similar water features;

f. Parking lot islands or landscaping;

g. Paved plazas or courtyards;

h. Buildings, structures, or other impervious surface areas;

i. Areas obstructed by heating, ventilation, air conditioning (HVAC) equipment, electrical boxes, and other similar equipment; and

j. To be credited for open space, it must be determined that stormwater management features have spaces specifically devoted and configured such that they are:

i. Designed, landscaped, and maintained as natural areas.

ii. Dedicated for amenities, including walking paths, piers, picnic areas, and other passive recreation spaces designed according to the standards specified within the Technical Standards and Specifications Manual.

~~(2) Unity.~~ For single-family subdivisions, the land dedicated as open space shall be form a single lot parcel of land, whether or not the subdivision is developed in phases or sections, except where it is determined by the subdivision review board, that two ~~(2)~~ or more ~~parcels~~ lots would be in the best interests of the residents of the subdivision and the public; and in such case, the board, may require that such ~~parcels~~ lots be connected.

~~(23)~~ *Usability.* At least one-half (~~1/2~~) of the total land dedicated must be outside of wetland areas under the jurisdiction of the federal and state regulatory agencies and usable for active recreation. Areas set aside to meet the requirements of the conservation resource regulations can only be credited for one-half (~~1/2~~) of the area required for passive recreation. Tidal marshes may not be counted to satisfy the recreational space requirements.

~~(34) Shape.~~ The portion of dedicated land to be used for active recreation shall be of such a shape to be usable for active recreational facilities including, but not limited to, tennis courts, racquetball courts, swimming pools, exercise rooms, clubhouses, athletic fields, basketball courts, swings, slides and play apparatus.

(4) For single-family residential subdivisions:

~~(4)~~ — *a. Recreation space.* Up to half of the required open space set-aside area may be recreation space. Active recreation space may include playgrounds, tennis courts, swimming pools, and similar outdoor uses. No more than 25 percent of any active recreation space may be in indoor facilities (e.g., exercise rooms, clubhouses, etc.).

*b. Greenways.* If open space is a greenway, the land shall be a continuous linear parcel through the subdivision of at least ~~thirty~~ (30) feet in width.

~~(5)~~ *c. Location.* The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the immediate neighborhood within the subdivision for which the land dedication is made and can be combined with an adjacent park. The location of dedicated land shall be in conformance with any adopted parks and open space plans of the city or New Hanover County.

~~(6)~~ — *d. Access.* All dwelling units in the subdivision shall have free, easy, and convenient ingress and egress to and from the ~~park, recreation and open space~~ areas provided within the development by means of improved streets or dedicated walkways. Rights-of-way for such access shall be shown on the preliminary plans and final plats.

~~(7)~~ *e. Topography.* The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed, and in no case shall the slope of the land dedicated be greater than ~~fifteen~~ (15) percent.

~~(8) Required stormwater detention/retention facilities.~~ Required stormwater detention/retention facilities that are not designed, landscaped, and maintained as

~~naturalized amenities integrated into preserved natural areas shall not be accepted to fulfill the requirements set forth by this section. Actual space devoted towards amenities, such as walking paths, piers, picnic areas, and other passive recreational space that are associated with stormwater management facilities (i.e., wet ponds) shall receive credit towards the calculation of open space if such amenities associated with stormwater management facilities are designed according to the standards specified in the [city's] Technical Standards and Specifications Manual to meet this requirement.~~

~~(9) e. Landscaping. Park and recreation~~ Open space areas shall be landscaped and shall contain sufficient natural or manmade screening or buffer areas to minimize any negative impacts upon adjacent residences. Natural open space areas shall be left undisturbed in their natural vegetated condition or revegetated with native plantings if previously disturbed or disturbed during development.

~~(10) Encroachments. The park, recreation and open space areas required by this section shall exclude roadways, parking areas and other accessory uses except recreational facilities.~~

~~(11) Consistency with master parks plan. If any portion of any subdivision proposed for residential development lies within an area designated on the officially adopted city or county master parks plan as a park, such area shall be included as part of the area set aside to satisfy the requirements of this section. This area shall be dedicated to public use.~~

~~(12) f. Recreational facilities. The subdivision review board may require the installation of recreational facilities after considering the:~~

- a. Character of the ~~park, recreation, and~~ open space area;

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~~(g)~~ f. Flexibility in administration authorized.

(1) The requirements set forth in this subsection concerning the amount, size, location and nature of ~~park, recreation, and~~ open space areas to be provided in connection with residential developments are established by the city council as standards that preemptively will result in the provision of that amount of ~~recreational facilities and~~ open space that is consistent with officially adopted city or county plans. The city council recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this section may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the board is authorized to permit minor deviations from these standards whenever it determines that:

- a. The objectives underlying these standards can be met without strict adherence to them;
- b. Because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.



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## Article 15, Division II, Definitions.

Open space: land set aside to remain undeveloped without buildings or structures.

Recreation space: land dedicated for infrastructure for leisure purposes as part of a required open space set aside. Such land may be dedicated to active recreation, such as tennis courts, swimming pools, and playgrounds or passive recreation, such as walking paths, where there is minimal disturbance of vegetation.

**CONSISTENCY WITH ADOPTED PLANS*****Create Wilmington Comprehensive Plan***

The following analysis examines the proposal relative to the policies of the plan. Policies that most pertain to the proposed amendment are provided below. Not all policies carry equal weight and may depend on the specifics of the proposal. The policy analysis uses the following symbology:



Strong Support



Modest Support



Modest Non-support



Strong Non-support

<b>Policies</b>		<b>1 Development and City Building</b>
1.2.1	Development should create places, streets, and spaces that are visually attractive, safe, accessible, functional, inclusive, have their own distinct identities, and maintain or improve desired character.	
1.2.2	Development should occur in a compact pattern that reinforces the efficient provision of public services and utilities, improves the performance of the transportation network, preserves open space, and reduces negative impacts of low-intensity and noncontagious development patterns.	
1.2.3	Large scale development should include provisions for parks, community facilities, and other amenities to help meet the demands created by the development.	
1.3.4	Mixed-use development that provides a range of services within walking distance of integrated residential development should be promoted as a way to help reduce motor vehicle trips. Developments that reduce reliance on single-occupancy motor vehicles should be supported.	
1.7.8	Usable open space that preserves natural landscapes and high-quality ecological resources should be encouraged in new residential development.	
<b>Policies</b>		<b>3 Community Facilities and Services</b>
8.2.3	During public and private development and redevelopment, adequate land should be allocated for community facilities, including, but not limited to, schools, fire stations, police stations, emergency medical service stations, parks, greenspace, public spaces, and other community priorities.	
<b>Policies</b>		<b>9 Urban Design and Placemaking</b>
9.5.4	Infill and redevelopment should respect and improve the integrity of neighborhood open spaces and public areas. Buildings should be designed to avoid the loss of sunlight or vistas and enhance the usability of neighborhood parks, plazas, and buffers.	



### ***City of Wilmington Strategic Plan***

Elements of support from the *City of Wilmington Strategic Plan* include the focus areas of:

*Foster a Prosperous, Thriving Economy:* The city will promote opportunity and prosperity by fostering sustainable, regionally coordinated economic growth and development strategies for creating jobs, building a strong workforce, facilitating commerce and business vitality; and

*Provide Sustainability and Adaptability*

The city will protect and preserve our natural resources with quality design for the built environment. The city will make strategic decisions focused on the long-term financial, physical, and social health of the entire city to enhance our ability to respond to changing economic and demographic conditions. Our actions will be based on a shared commitment to inclusiveness, equity, and continuous improvement.

### **CONCLUSION / RECOMMENDATION**

The open space standards of the city are confusing, inconsistent, and scattered throughout the current LDC. City Council recently approved new, more understandable open space standards as part of the changes to the CDMU regulations. The new open space standards closely follow the proposed standards set forth in the new Land Development Code. As noted during the CDMU discussions, the proposed amendments would assist developers in better understanding what open space is required. Clearer standards would also make it easier for city officials to implement and enforce the code and help ensure that new developments will include meaningful, useful open space for better tree preservation and other benefits.

The proposed changes are consistent with the recommendations of the city's *Strategic Plan* and the *Create Wilmington Comprehensive Plan*. Staff recommends **approval** of the request.

### **NEIGHBORHOOD CONTACT**

	<b>Planning Commission</b>	<b>City Council</b>
<i>Advertisement Date(s)</i>	1/1/2021	
<i>Other – Contact(s)</i>		

### **ACTIONS TO DATE**

<i>Planning Commission</i>	1/6/21, scheduled for public hearing
<i>City Council</i>	

### **ATTACHMENTS**

Full text of applicable Land Development Code sections